88-971 (1)

ORAL ARGUMENT REQUESTED

Supreme Court, U.S.
FILED
MAY 2 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

No.

IN RE: BERNARD J. DOLENZ

Petitioner,

PETITION FOR A WRIT OF MANDAMUS, OR A WRIT OF PROHIBITION, OR BOTH REGARDING JURISDICTION

Bernard J. Dolenz
6102 Swiss Avenue
Dallas, Texas 75214

Pro Se

TO THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner, Bernard J. Dolenz, files this, his Petition for a Writ of Mandamus, or a Writ of Prohibition, or both, to the Honorable William J. Zloch, Judge of the United States District Court, Southern District of Florida, directing nullification of a Final Judgment entered on February 16, 1988 (42), and for cause, Petitioner shows as follows:

NATURE OF THE SUIT AND PROCEEDINGS

The Defendant was arrested on July 10, 1986 for non-payment of services which the owner contends were either not done, were done poorly, or excessivly charged. The owner attacks jurisdiction of the Trial Court as the boat was never finished or commissioned according to statements given by the Plaintiff's owner, his marine expert surveyor, and

the U.S. Marshall in his return of service (p. 52 et seq). Accordingly, all proceedings and judgment should be void as the Court lacks jurisdiction.

REASONS FOR ALLOWANCE OF WRIT

This is an appropriate case as this Court has power to issue all writs under 28 USC, Section 1651, and Article III of the U.S. Constitution in that, a) Exceptional circumstances warrant the excercise of this Courts discretionary power as this boat has been placed "in ransom" for the past two years, the owner of the boat has been refused the right to defend the vessel, and the Zloch Court has even refused any hearing by the Petitioner, even though the Court has documents reflecting the ownership in the Petitioner (18, 30, 52, et seq).

b) Adequate relief was not obtained from the 11th Circuit (30, 31, 34).

c) Continuing delays in the Court system

causes deterioration of the vessel and deprives the Petitioner of his property interest to get the Defendant finished and into the water.

ISSUES PRESENTED

This Petition presents the following issues elaborated at (73 et seq):

1. TO RESTRICT THE LOWER COURT TO AUTHORIZED EXERCISE OF JURISDICTION.

2. TO COMPEL LOWER COURT TO EXERCISE ITS AUTHORITY WHEN THERE IS A DUTY TO DO SO.

3. TO COMPEL LOWER COURT'S COMPLIANCE WITH PRIOR MANDATES.

WHEREFORE, Petitioner prays: That a Writ of Mandamus or a Writ of Prohibition be issued by this Court directed to the Honorable William J. Zloch to dismiss the case as the Court lacks jurisdiction; that the Defendant be released to Petitioner without impediment for its placement into the water; for Rule 11 Sanctions against the Plaintiff; and for general relief.

4-19-88 Bernard Alby

CERTIFICATE OF SERVICE

Three copies of the foregoing instrument were sent by regular mail to Judge William J. Zloch, U.S. District Judge, Room 202B, 299 East Broward Blvd, Ft. Lauderdale, FL 33301 and to Steven Perry, Plaintiff's attorney, P. O. Drawer 24, Stuart, FL 33497-0024 on this the _____ day of April, 1988.

Bernard J. Dolenz